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PATENT
Attorney Docket No.: 021756-000100US
Client Ref. No.: OID-2003-008-01

TOWNSEND and TOWNSEND and CREW LLP

By: /Sandra Lee Bourassa, PLS/
Sandra Lee Bourassa, PLS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRISTINE CHEN et al.

Application No.: 10/612,257

Filed: July 1, 2003

For: A METHOD FOR UPDATING THE
SUPPLY PLAN USED BY AN
AVAILABLE-TO-PROMISE SYSTEM

Customer No.: 51206

Confirmation No.: 3331

Examiner: Andre D. Boyce

Art Unit: 3623

RESPONSE TO NOTICE OF NON-
COMPLIANT AMENDMENT
(37 CFR 1.121)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Amendment mailed July 8, 2008, attached is a copy of the previous Amendment, as filed electronically, on April 24, 2008. Applicants respectfully direct the Examiner to this previous response wherein the rejections under 35 U.S.C. §§102(b) and 102(f) were addressed on page 20 of the April 24, 2008 Amendment.

Applicants' representative, Tadd Wilson, has attempted to call the Examiner on several occasions to resolve this issue. If the Examiner believes a telephone conference would expedite prosecution of this application or to explain the Notice, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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on April 24, 2007.

PATENT

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Filed: July 1, 2003

For: A METHOD FOR UPDATING THE
SUPPLY PLAN USED BY AN
AVAILABLE-TO-PROMISE SYSTEM

Customer No.: 51206

Confirmation No. 3331

Examiner: Park, George M.

Technology Center/Art Unit: 4114

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed November 2, 2007, please enter the following amendments and remarks:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims which begins on page 6 of this paper.

Amendments to the Drawings begin on page 11 of this paper and include both an attached replacement sheet and an annotated sheet showing changes.

Remarks/Arguments begin on page 12 of this paper.

An **Appendix** including amended drawing figures is attached following page 21 of this paper.

Amendments to the Specification:

Please replace paragraph [0010] with the following amended paragraph:

[0010] One embodiment of an available-to-promise (ATP) system for processing customer requests according to the invention comprises a supply chain planning component configured to allow a planner to update a model of a supply chain for one or more products sold by the ATP system and an order promising-processing component configured to allow a planner to update an old supply plan used to process requests with a new supply plan. The order promising component is capable of (i) copying a current supply plan used by the ATP system to process customer requests to create a second supply plan; (ii) thereafter, receiving a first plurality of customer requests at the ATP system and processing orders from the first plurality of requests against the current supply plan while the ATP system runs the model of the supply chain process with the second supply plan as part of a process that creates a new supply plan; (iii) after the new supply plan is created, synchronizing orders from the first plurality of customer requests scheduled against the current supply plan into the new supply plan until a threshold number of orders in the first plurality of requests is reached; (iv) thereafter, temporarily stopping promising new customer requests received by the ATP while checking all remaining orders from the first plurality of requests not checked during the synchronizing process against the new supply plan; and (v) after the remaining orders from the first plurality of requests are processed, switching the new plan supply for the current supply plan so that the ATP system can process future customer requests against the new supply plan.

Please replace paragraph [0015] with the following amended paragraph:

[0015] Fig. 1 is a block diagram of an available-to-promise (ATP) ordering system 10 according to one embodiment of the present invention. ATP System 10 is programmed to enable sophisticated, fast, accurate and flexible order promising for an organization. System 10 includes an order promising-processing component 20 that receives, processes and responds to requests received from customers 12, such as requests to purchase one or more products. Responses to the requests are in the form of a promised delivery date for the one or more

products. As used herein, each customer request may include one or more orders. For example, a customer may place a request with system 10 for 20 units of Product A to be received by Date 1, 50 units of Product A to be received by Date 2 and 10 units of Product C to be received by Date 3. Each of these individual requests within the customer request is referred to herein as an order. System 10 is programmed to be able to fulfill (promise) orders within a request independent of other orders in the request.

Please replace paragraph [0016] with the following amended paragraph:

[0016] In processing customer requests, order processing component 20 reserves available inventory (or inventory that will be available in the future) for the customer from one or more warehouses best suited to ship the products to the customer or, if the products are not currently in inventory, from one or more manufacturing facilities best suited to complete the products. Requests from the customer are typically made with a client system (not shown) that accesses system 10 through an interface 15. The client system may be, for example, a personal computer.

Please replace paragraph [0017] with the following amended paragraph:

[0017] In one embodiment, order processing component 20 is part of a distributed computing system and multiple client systems communicate with order processing component 20 via the Internet. Accordingly, in some embodiments of the invention, order processing component 20 provides support for handling multiple concurrent order promising processing requests by implementing locking and read consistency of data so that the same supply is not promised to multiple customers.

Please replace paragraph [0022] with the following amended paragraph:

[0022] Thus, as can be appreciated by a person of skill in the art, supply plan 24 is an important part of system 10 for enabling order promising processing component 20 to accurately fulfill customer requests. That is, system 10 needs access to supply plan 24 on a 24 hour a day, seven day a week basis in order to respond to customer requests in real time with promises of

future delivery dates. Because the accuracy of promises made by system 10 is directly related to the accuracy of supply plan 10, it can be appreciated that it is important to update supply plan 24 on a regular basis.

Please replace paragraph [0028] with the following amended paragraph:

[0028] At the completion of the model run, new supply plan 24 is created. Some embodiments of the invention include a database entry associated with each supply plan that indicates to order promising-processing component 20 whether or not the supply plan is to be used in fulfilling customer requests. In such embodiments, the new supply plan is not yet marked active at this point and orders are still processed against Plan 1.

Please replace paragraph [0029] with the following amended paragraph:

[0029] Next, a pre-allocation program is run that pre-allocates supply to specific classes of demand (step 58) and a summary program is run that stores summary supply and demand information from the new supply plan in a separate table (step 60). The separate summary table is used by order promising-processing component 20 whenever possible to quickly retrieve summarized availability information without computing availability from more detailed supply and demand tables. The pre-allocation program uses allocation rules 22 to pre-allocate selected volume or percentages of products and/or supply in accordance with the business objectives of the organization. As shown in Fig. 3, the summary and pre-allocation programs run from time t2 to time t3.

Please replace paragraph [0037] with the following amended paragraph:

[0037] After the remaining orders have been processed, the supply plan for order promising-processing component 20 is switched from the old supply plan to the new supply plan (step 68) and customer requests are processed against the new supply plan (step 70). In one embodiment plan switching is accomplished by changing a pointer to the new supply plan and setting a flag associated with the new supply plan to indicate that the new supply plan is available for ATP processing.

Please replace paragraph [0038] with the following amended paragraph:

[0038] Having fully described several embodiments of the present invention, other equivalent or alternative methods of practicing the present invention will be apparent to those skilled in the art. For example, while system 10 was described as including allocation rules 22, such rules are optional. In some embodiments of the invention order processing component 20 fulfills orders based on a supply plan 24 without checking allocation rules. Also, in another embodiment where allocation rules 22 are used, system 10 includes [[and]] an allocated supply plan (not shown) that is used by order processing component 2220 to fulfill orders instead of supply plan 24. The allocated supply plan is created from a combination of the allocation rules 22 and supply plan 24 and saved separate from each. Also, in other embodiments, the creation of a summary table in step 60 is optional.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

1. (Previously Presented) A method of updating a supply plan used to process customer requests in an available-to-promise (ATP) system, the method comprising:
 1. updating a model of a supply chain for one or more products sold by the ATP system;
 2. copying a current supply plan used by the ATP system to process customer requests to create a second supply plan; thereafter, receiving a first plurality of customer requests at the ATP system and processing orders from the requests against the current supply plan while running the model of the supply chain with the second supply plan as part of a process that creates a new supply plan;
 1. after the new supply plan is created, synchronizing the new supply plan by processing orders from the first plurality of customer requests scheduled against the current supply plan into the new supply plan, wherein the synchronizing process is stopped prior to synchronizing all the orders in the first plurality of requests into the new supply plan; thereafter, temporarily stopping promising orders while synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process into the new supply plan; and after the remaining orders from the first plurality of requests are processed, replacing the current supply plan with the new supply plan so that the ATP system processes future customer requests against the new supply plan.
2. (Currently Amended) The method of claim 1 wherein the step of switching replacing the current supply plan [[to]] with the new supply plan is performed by changing a pointer to the new supply plan and setting a flag associated with the new supply plan to indicate that the new supply plan is available for ATP processing.

3. (Previously Presented) The method of claim 1 wherein an exception is generated if a promise made against the current supply plan cannot be made against the new supply plan.

4. (Original) The method of claim 3 wherein the exception causes a message to be generated and available to a planner for processing.

5. (Original) The method of claim 3 wherein the exception causes a message to be sent to a planner for processing.

6. (Previously Presented) The method of claim 1 wherein the step of synchronizing the new supply plan with the current supply plan comprises stopping synchronization when it is determined that a predetermined number of requests still need to be synchronized.

7. (Original) The method of claim 6 wherein the predetermined number is calculated by system 10 based on an average time of synchronizing each request and a desired system downtime entered by a planner.

8. (Original) The method of claim 1 further comprising, prior to running the model, capturing a snapshot of data representing actual sales and promised requests for use in creation of the new supply plan.

9. (Original) The method of claim 1 further comprising creating a summary table from the new supply plan that can be used by the ATP system to quickly retrieve summarized availability information without computing availability from more detailed supply and demand tables.

10. (Original) The method of claim 1 further comprising pre-allocating products available for promising in the new supply plan in accordance with previously defined business objectives of an organization.

11. (Currently Amended) The method of claim 1 further comprising, after switching-replacing the current supply plan [[to]] with the new supply plan, receiving a second plurality of customer requests by the ATP system and promising orders from the second plurality of requests against the new supply plan.

12. (Previously Presented) The method of claim 1 wherein the synchronizing process is stopped when a number of outstanding orders not synchronized into the new plan reaches a threshold number.

13. (Original) The method of claim 12 wherein the threshold is a user defined threshold.

14. (Currently Amended) A method of managing available-to-promise sales orders, the method comprising:

receiving a first plurality of requests from customers and promising orders from the first plurality of requests against a first supply plan;

creating a new supply plan; receiving a second plurality of requests from customers while the new supply plan is being created, wherein the second plurality of requests is received after the first plurality of requests;

promising orders from the second plurality of requests against the first supply plan;

synchronizing a first portion of the first plurality of requests between the first supply plan and the new supply plan;

stopping synchronization after synchronizing the first portion of the first plurality of requests between the first supply plan and the new supply plan;

temporarily stopping processing orders while processing a second portion of the first plurality of requests between the first supply plan and the new supply plan and while processing the second plurality of requests;

invalidating the first supply plan and activating the new supply plan;

receiving a third plurality of requests from customers, wherein the third plurality of requests is received after the second plurality of requests; and

promising orders from the third plurality of requests against the new supply plan.

15. (Previously Presented) The method of claim 14 further comprising copying the first supply plan and creating the new supply plan from the copy of the first supply plan.

16. (Currently Amended) An available-to-promise (ATP) system for processing customer requests, the system comprising:

a supply chain planning component configured to allow a planner to update a model of a supply chain for one or more products sold by the ATP system; and

an order promising component configured to allow a planner to update [[an old]] ~~a current~~ supply plan used to process requests with a new supply plan by (i) copying a current supply plan used by the ATP system to process customer requests to create a second supply plan;

(ii) thereafter, receiving a first plurality of customer requests at the ATP system and promising orders from the first plurality of requests against the current supply plan while the ATP system runs the model of the supply chain process with the second supply plan as part of a process that creates a new supply plan;

(iii) after the new supply plan is created, synchronizing orders from the first plurality of customer requests scheduled against the current supply plan into the new supply plan by processing a first subset of the plurality of customer requests against the new supply plan until a threshold number of orders in the first plurality of requests is reached;

(iv) thereafter, temporarily stopping promising orders from new customer requests received at the ATP system while checking all remaining orders from the first plurality of requests not checked during the synchronizing process against the new supply plan; and

(v) after the remaining orders from the first plurality of requests are processed, switching the new supply plan for the current supply plan so that the ATP system can process future customer requests against the new supply plan.

17. (Original) The system of claim 16 further comprising a demand planning component configured to allow a planner to create a demand plan that can be used by the supply chain planning component to model a supply chain.

18. (Original) The system of claim 16 wherein the threshold number is a user defined limit.

19. (Currently Amended) The method of claim 15 further comprising synchronizing a first subset of the second plurality of requests scheduled against the [[old]] current supply plan into the new supply plan by processing the second plurality of requests against the new supply plan.

20 (Previously Presented) The method of claim 19 further comprising:
temporarily stopping promising orders; and
synchronizing all remaining requests from the second plurality of requests not synchronized during the synchronizing the first subset.

Amendments to the Drawings:

The drawings have been objected to under 37 CFR 1.83(a) for the reasons that they must show every feature of the invention specified in the claims. The drawings have been amended as indicated by the Examiner. No new matter has been entered. The attached sheet of drawings includes changes to Fig. 2. New portions are indicated as being added on the Annotated Sheet in the Appendix. These additions are described in the specification. This sheet, which includes Fig. 2 replaces the original sheet including Fig. 2.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

Claims 1-20 are currently pending in the application. Claims 2, 11, 14, 16, and 19 have been amended. No claims have been added or cancelled. Therefore, claims 1-20 are present for examination. Claims 1, 14, and 16 are independent claims.

Information Disclosure Statement

The Examiner has stated that the information disclosure statement filed January 10, 2005 has been objected to because of the informality that the declaration filed with this IDS has been properly submitted, however, this declaration does not need to be cited on the SB08(b) (1449) form since it is not a publication and therefore the mention of this document on the (IDS) has been crossed out on the form to prevent its listing on the face of the patent, if and when this application is allowed. Applicants hereby note that the Examiner has considered the declaration filed in the IDS. As such, Applicants believe no further action is necessary.

Requirement for Information

The Examiner has requested information a possible issue of public use or on sale activity. According to information provided by one or more inventors, the information below is in response to the Examiner's request.

(1) The disclosure and sale took place in Atlanta, Georgia prior to July 1, 2002.

(2) The discussions with Oracle consultants were not public. The Oracle consultants are employees of Oracle. Further, the customer was under a Non-Disclosure Agreement. As such, all parties to the discussions were under agreement not to make any information public. There is no public record of the discussions (e.g., articles or trade show materials).

(3) The product disclosed and implemented for the customer performed the following functionality:

- a. When a supply plan (also referred to as an ATP plan) needs to be updated, a new supply plan is launched ("Plan 2").
- b. As Plan 2 is being created, new and changed demand requests are promised using the old plan ("Plan 1"). Records that are changed or added during this time are flagged.
- c. After the completion of the creation of Plan 2, the records in Plan 2 reflect the demand request records prior to the launch of Plan 2.
- d. The new and changed demand requests from Plan 1 are copied directly into Plan 2. The updates to Plan 2 are not considered when copying the demand requests to Plan 2.

(4) The product disclosed and sold does not embody the claims. Rather, the product does not include one or more elements of the claims. In particular, the product does not include the following claim element from claim 1:

"after the new supply plan is created, synchronizing the new supply plan by processing orders from the first plurality of customer requests scheduled against the current supply plan into the new supply plan, wherein the synchronizing process is stopped prior to synchronizing all the orders in the first plurality of requests into the new supply plan; thereafter, temporarily stopping promising orders while synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process into the new supply plan; and after the remaining orders from the first plurality of requests are processed, replacing the current supply plan with the new supply plan so that the ATP system processes future customer requests against the new supply plan."

The product does not include the following claim elements from claim 14:
"synchronizing a first portion of the first plurality of requests between the first supply plan and the new supply plan;

stopping synchronization after synchronizing the first portion of the first plurality of requests between the first supply plan and the new supply plan;

temporarily stopping processing orders while processing a second portion of the first plurality of requests between the first supply plan and the new supply plan and while processing the second plurality of requests;

invalidating the first supply plan and activating the new supply plan;

receiving a third plurality of requests from customers, wherein the third plurality of requests is received after the second plurality of requests; and

promising orders from the third plurality of requests against the new supply plan.”

The product does not include the following claim element from claim 16:

“(iii) after the new supply plan is created, synchronizing orders from the first plurality of customer requests scheduled against the current supply plan into the new supply plan by processing a first subset of the plurality of customer requests against the new supply plan until a threshold number of orders in the first plurality of requests is reached;

(iv) thereafter, temporarily stopping promising orders from new customer requests received at the ATP system while checking all remaining orders from the first plurality of requests not checked during the synchronizing process against the new supply plan; and

(v) after the remaining orders from the first plurality of requests are processed, switching the new supply plan for the current supply plan so that the ATP system can process future customer requests against the new supply plan.”

(5) There is no other information that would be pertinent to the disclosure and sale.

Claim Rejection Under 35 U.S.C. 112, second paragraph

Claims 2-5, 11, 19 and 20 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “changing a pointer to a new supply plan” is explained in ¶ [0037]. Applicants direct the Examiner’s attention to this paragraph for an explanation of the phrase.

The phrase “exception is generated” is explained in ¶ [0035]. Applicants direct the Examiner’s attention to this paragraph for an explanation of the phrase.

The phrase “step of switching,” “after switching,” and “the old supply plan” have been amended to provide proper antecedent basis.

As such, Applicants respectfully request the withdrawal of this rejection.

Claim Rejection Under 35 U.S.C. 102

Claim 1 has been rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Publication No. 2002/0152104 A1 to Ojha et al. (“Ojha ”). Applicants respectfully traverse the rejection because the Examiner has failed to set forth a *prima facie* case of anticipation. Indeed, for a patent publication to anticipate the claims, the publication must contain each and every element of the claims. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); *see also* MPEP § 2131. Ojha fails to describe each and every element of the claims.

Embodiments presented in the application provide for systems and methods for providing an updated supply plan. The process, in embodiments, begins with an update of the supply chain model. Then, the system copies “a current supply plan used by the ATP system to process customer requests to create a second supply plan.” The updated supply chain model is used to change the second supply plan into a new supply plan. The orders processed by the existing supply plan are processed by the new supply plan during synchronization. However, “the synchronizing process is stopped prior to synchronizing all the orders in the first plurality of requests into the new supply plan.” Then, the system temporarily stops “promising orders while

synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process into the new supply plan.” The remaining orders are synchronized with the new supply plan, and the new supply plan replaces the existing supply plan.

Ojha describes an ATP system that has to highly available (HA) systems, a primary HA system and a replacement HA system. *See Ojha, ¶ [0006]*. The primary HA system is updated then stored as a new HA system. *See Ojha, ¶ [0006]*. Orders processed by the primary HA system are then copied to the new HA system. *See Ojha, ¶ [0045]*. Then, the new HA system then assumes the processing of orders. *See Ojha, ¶ [0050]*. As will be shown, the description of Ojha fails to teach several claim elements.

Claim 1

Missing Limitation: “copying a current supply plan used by the ATP system to process customer requests to create a second supply plan”

The Examiner cites Ojha at paragraph [0027], lines 19-22 as teaching this element of the claims. *See Office Action*, p. 5. The section cited by the Examiner is as follows: “As described below, primary HA system 20a replicates such state change information to secondary HA systems 20b-20n after completing a state-changing transaction.” *Ojha, ¶ [0027]*. This recitation does not describe the same thing as the claim element. Notably, copying “state-changing information” is not the same thing as copying the current supply plan.

Ojha clearly shows, in the same paragraph, that “state-changing information” is information about customer orders.

In general, the primary services involve transactions that change the state of an HA system 20. For example, a promise generated by primary HA system 20a that allocates a certain amount of the ATP supply to a customer is a state-changing transaction since the ATP supply has changed and needs to be updated. Such *state-changing transactions are significant, particularly in embodiments where such information is stored locally at each HA system 20*, in that the ATP supply information (or other state information that is changed) needs to be updated at each HA system 20.

Ojha, ¶ [0027] (emphasis added).

The state-changing information is information about a transaction. The information about each state-changing transaction is duplicated to both the primary HA system and the secondary HA system. This is not the same as copying the current supply plan (which can have several transactions recorded) to create a second copying supply plan. Indeed, the section cited by the Examiner shows that the secondary HA system already exists (and need not be created by copying the primary HA system) because the “primary HA system 20a replicates such state change information to secondary HA systems.” *Ojha*, ¶ [0027]. As such, Ojha does not describe this element of the claims.

Missing Limitation: “wherein the synchronizing process is stopped prior to synchronizing all the orders in the first plurality of requests into the new supply plan”

The Examiner cites Ojha at paragraph [0045], lines 6-11 as teaching this element of the claims. *See Office Action*, p. 6. The section cited by the Examiner is as follows:

As described above, ATP supply information and/or other appropriate planning information generated by one or more planning engines 80 may be communicated to the DF engine 22 in each HA system 20 in replacement HA system group 70b before that system group goes on-line to become the operating HA system group 70a.

Ojha, ¶ [0045].

This recitation does not describe the same thing as the claim element. Notably, the synchronization process is not stopped before all orders are processed with the new supply plan. Ojha clearly shows that synchronization process continues through all orders before bringing the replacement HA system online. The Examiner attempts to inflate the meaning of the word “online” to mean something different than what Ojha intends. It is not the synchronization process that goes offline or online, but, rather, “online” describes when the replacement HA system will begin operating.

Indeed, Ojha describes the synchronization process continuing until the replace HA system is ready to come online.

Based on this demand information, planning engine 80 updates the amount of ATP supply for the next period at step 204 and communicates the updated ATP supply information to HA systems 20' of replacement HA system group 70b at step 206. Primary HA system 20a of operating HA system group 70a continues to

promise ATP supply in response to product orders while the ATP supply information is being updated. Therefore, once replacement HA system group 70b is ready to come on-line, the ATP supply information stored in replacement HA systems 20' should be updated to account for promises made by operating primary HA system 20a after planning engine 80 extracted the ATP supply information.

Ojha, ¶ [0047].

The synchronization process continues through all the orders, not a portion of the orders, and does not stop. As such, Ojha describes a synchronization process very different than that claimed and does not describe this element of the claims.

Missing Limitation: “temporarily stopping promising orders while synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process into the new supply plan”

The Examiner cites Ojha at paragraph [0050], lines 1-21 as teaching this element of the claims. *See Office Action*, p. 6. The section cited by the Examiner is as follows:

Replacement primary HA system 20a' instructs operating HA systems 20 (either individually or through primary HA system 20a) to terminate operation at step 216. At step 218, HA systems 20 terminate operation and generate a stop record indicating the last order that was processed and/or the time of the termination. At substantially the same time as the post-extraction orders are processed by replacement primary HA system 20a' and the termination order is sent, HA systems 20' become operational at step 220 and take over for HA systems 20 (for example, become ready to process product orders, inquiries, and other appropriate requests). It is possible that primary HA system 20a may process a small number of product orders during or after the time that the stop record is published (for example, product orders that were already being processed when primary HA system 20a was instructed to terminate operation). Therefore, at step 222 the new operating primary HA system 20a' may process or replay (as in step 214) any remaining pre-termination orders that were already processed by primary HA system 20a and update the HA supply information in ATP systems 20' accordingly.

Ojha, ¶ [0050].

Again, this recitation does not describe the same thing as the claim element. Nowhere in the section cited does processing of orders stop much less stop to allow the processing of a remainder of existing orders not already processed by the new supply plan. Ojha

clearly shows that orders are continually processed. In fact, Ojha clearly describes that ordering never stops. Ojha states that “[at] substantially the same time as the post-extraction orders are processed by replacement primary HA system 20a’ and the termination order is sent, *HA systems 20’ become operational at step 220 and take over for HA systems 20.*” *Ojha, ¶[0050] (emphasis added).* Thus, at no time does both the primary HA system and the replacement HA system, in Ojha, stop processing orders all together to allow for processing, by the new supply plan, of currently existing orders. As such, Ojha describes a process very different than that claimed and does not describe this element of the claims.

For at least the reasons described above, claim 1 is allowable over Ojha. Further, claims 2-13 depend from claim 1, and, due to at least this dependence, claims 2-13 are also allowable over Ojha.

Claim 14

Claims 10, 11, 14, 15, 19 and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Ojha reference. Amended claim 14 contains elements similar to claim 1. For example, claim 14 includes “stopping synchronization after synchronizing the first portion of the first plurality of requests between the first supply plan and the new supply plan;” and “temporarily stopping processing orders while processing a second portion of the first plurality of requests between the first supply plan and the new supply plan and while processing the second plurality of requests.” As such, for at least the reasons recited above, Claim 14 is also allowable over Ojha. Claim 15 depends from claim 14. Thus, claim 15 is also allowable over Ojha due at least to this dependence.

Claim 16

Claims 12, 13 and 16-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Ojha reference as applied to claim 1, and further in view of U.S. Publication No. 2002/0072988 A1 to Aram (“**Aram**”). Applicants respectfully request reconsideration of the rejection because the Examiner has failed to show a prima facie case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, *the prior art reference (or references when combined) must teach or suggest all the claim limitations.* MPEP §2142, Original Eighth Edition, August, 2001, Latest Revision August 2006 (*emphasis added*).

The combination of Ojha and Aram does not describe all the limitations of the claims. Claim 16 contains elements similar to claim 1. For example, claim 16 includes “copying a current supply plan used by the ATP system to process customer requests to create a second supply plan,” and “temporarily stopping promising orders from new customer requests received at the ATP system while checking all remaining orders from the first plurality of requests not checked during the synchronizing process against the new supply plan.” As such, for at least the reasons recited above, Claim 16 is also allowable over Ojha. The Examiner does not state that Aram teaches these elements. As such, claim 16 is allowable over the combination of Ojha and Aram. Further, claims 17-20 depend from claim 16, and, due to at least this dependence, claims 17-20 are also allowable over the combination of Ojha and Aram.

Claims 1-20 have been rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. As shown by the evidence provided above, there was no public use or disclosure of the invention because all parties were required to keep the information confidential. As such, this rejection is moot.

Claims 1-20 have been rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. As explained above, the invention was invented by the employees of Oracle listed in the application. As such, this rejection is moot.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Applicants do not acquiesce to any argument not

Appl. No. 10/612,257
Amdt. dated April 24, 2007
Reply to Office Action of November 2, 2007

PATENT

specifically addressed herein but believe the amendments and argument presented herein overcome all rejections.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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